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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION
16

17 RAMBUS INC.,

18 Plaintiff,

19 v.

20 NVIDIA CORPORATION,

21 Defendant.

22 and

23 NVIDIA CORPORATION

24 Plaintiff,

25 v.

26 RAMBUS, INC.,

27 Defendant.
28

Case No. C-08-03343 SI

Case No. C-08-05500 SI

**STIPULATION AND [PROPOSED]
ORDER**

1 Rambus Inc. and NVIDIA Corporation (collectively, the “Parties”) hereby submit the
2 following joint stipulation and proposed order to apprise the Court of the status of related
3 proceedings and to seek rescheduling of the March 12, 2010 case management conference for
4 June 18, 2010:

5
6 **The Proceeding in the International Trade Commission**

7 The Parties are involved in a related proceeding pending in the International Trade
8 Commission, *In the Matter of Certain Semiconductor Chips Having Synchronous Dynamic*
9 *Random Access Memory Controller and Products Containing Same*, Inv. No. 337-TA-661
10 (U.S.I.T.C.) (the “ITC Action”). On January 22, 2010, the ITC court issued a Notice Regarding
11 Initial Determination. The Parties are briefing issues in response to the Initial Determination,
12 and a Final Determination is currently scheduled to issue on May 24, 2010. If the Final
13 Determination includes an exclusion order, there will be a 60-day period during which the
14 President of the United States may overturn the exclusion order. The Commission’s decision
15 then can be appealed to the Federal Circuit.
16

17 **The Proceedings in the U.S. Patent and Trademark Office**

18 The U.S. Patent and Trademark Office is conducting *inter partes* reexaminations of the 15
19 remaining patents-in-suit in this action. Although the PTO has taken at least some action with
20 respect to each of the 15 patents, the reexamination process has not yet concluded for any of the
21 patents. After the patent examiner completes review of each reexamination, an appeal of that
22 reexamination can be brought before the PTO’s Board of Patent Appeals and Interferences and
23 then to the Federal Circuit.
24

25 **The Proceedings in the Federal Circuit**

26 The Federal Circuit is reviewing the decisions in *Hynix Semiconductor, et al. v. Rambus,*
27 *Inc.*, No. C-00-20905 (RMW (N.D. Cal.)), and *Micron Technology, Inc. v. Rambus, Inc.*, Civ. No.
28

1 00-792-SLR (D. Del.). See Docket No. 120 (referencing pendency of appeal in *Hynix* and
2 *Micron* cases). Briefing is complete and oral argument is scheduled for April 5, 2010.

3 **Initial Phase of this Action**

4 The Court entered a Protective Order on April 21, 2009. The Court entered Orders on
5 April 13, 2009 and June 18, 2009 governing discovery in this case, which among other things
6 implemented an initial phase of discovery limited to document production from other
7 proceedings, including but not limited to the ITC Action. On August 5, 2009, the Court ordered,
8 pursuant to the Parties' stipulation, that the initial phase of discovery should continue until the
9 February 12, 2010 case management conference. On January 26, 2010, the Court ordered,
10 pursuant to the Parties' stipulation, that the initial phase of discovery should continue until the
11 March 12, 2010 case management conference.
12

13
14 The Parties are meeting and conferring regarding NVIDIA's proposals to amend the
15 Court's April 21, 2009 Protective Order, including without limitation paragraph 7.3(b) regarding
16 in-house counsel access to information that is designated "HIGHLY CONFIDENTIAL –
17 ATTORNEYS' EYES ONLY" pursuant to the Protective Order. NVIDIA and Rambus each
18 represent that none of their in-house counsel has accessed the other party's materials designated
19 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" in this action. The Parties intend
20 to further minimize burden and inefficiency by reaching a stipulation without the need to engage
21 in motion practice at this time to resolve any dispute regarding the Protective Order.
22

23 In light of the foregoing, Rambus and NVIDIA hereby stipulate as follows:

24 1. The case management conference scheduled for March 12, 2010, at 3:00 p.m.
25 should be rescheduled for June 18, 2010, at 3:00 p.m., and the case management statement should
26 be filed no later than June 11, 2010;

27 2. The initial phase of discovery should continue until the June 18, 2010 case
28

1 management conference;

2 3. Notwithstanding the Protective Order's provision to the contrary, materials that are
3 designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" shall not be made
4 available to in-house counsel for any party before June 22, 2010, unless the parties otherwise
5 agree or the Court so orders. If the June 22, 2010 date is not extended by stipulation or a Court
6 order and a party files no later than June 21, 2010, a motion to amend the Protective Order with
7 respect to in-house counsel access, materials that are designated "HIGHLY CONFIDENTIAL –
8 ATTORNEYS' EYES ONLY" shall not be made available to in-house counsel for any party until
9 final resolution of the motion, including any and all appeals to the district court of the Special
10 Master's ruling on that motion;
11

12 4. In view of the Stipulation addressing discovery matters in the interim, neither
13 party may file a motion in this matter until June 9, 2010;
14

15 5. Nothing in this Stipulation affects a party's right, pursuant to the terms of the
16 Protective Order, to challenge the designation of a document as "HIGHLY CONFIDENTIAL –
17 ATTORNEYS' EYES ONLY."
18

19 Dated: March 1, 2010

ORRICK, HERRINGTON & SUTCLIFFE LLP

21 /s/ David M. Goldstein

22 David M. Goldstein
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1 Dated: March 1, 2010

MCKOOL SMITH

3 /s/ Pierre Hubert

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9 **SO ORDERED:**

10 Dated: March __, 2010



11 HONORABLE SUSAN ILLSTON
12 United States District Judge